HON'BLE THE CHIEF JUSTICE SRI G.S. SINGHVI
AND
HON'BLE SRI JUSTICE G.V. SEETHAPATHY

Writ Appeal No.1273 of 2006

Between:

The State Election Commission,
Rep., by its Joint Secretary,
G.M. Ramesh Kumar, S/o Late M.B. Naidu,
Aged 58 years, III Floor, Buddha Bhavan,
Ranugunj, Secunderabad

... Appellant

And

Gonugunta Venkateswarlu and five others

... Respondents

::JUDGMENT::

Counsel for the appellant : Shri V.V. Prabhakar Rao

Counsel for respondent Nos.1 and 2: Shri M.V. Durga Prasad

Counsel for respondent Nos.3 to 6 : Government Pleader for Panchayat Raj

December 22, 2006

Per G.S. Singhvi, CJ

This appeal is directed against order dated 20-06-2006 passed by the learned Single Judge, whereby he allowed the writ petition filed by

respondent Nos. 1 and 2 along with a batch of other petitions with the title case **N.Sekhar v. Government of Andhra Pradesh and others** – Writ Petition No. 10965 of 2006.

` In the writ petition filed by them, respondent Nos.1 and 2 prayed for issue of a declaration that the action of the official respondents in not hearing and disposing of the appeal filed by them against the electoral roll published by District Panchayat Officer, Ongole, Prakasam District as arbitrary and illegal.

The learned Single Judge briefly referred to the factual matrix of the writ petitions, but did not deal with the individual grievance and disposed of the entire batch of writ petitions by a common order dated 20-6-2006, the operative part of which reads as under:

> "150. In view of the fact that by virtue of supersession made in G.O.Ms.No.254 constitutional, legislative and subordinate legislation vacuum had been created the validity or otherwise of the said Rules need not be gone into and hence the said question is left open. However, a Writ of Mandamus as prayed for is issued quashing the consequential notification issued on 10-6-2006 which is long subsequent to filing of the Writ Petitions and just one day after the passing of the order by the Division Bench, as
> illegal, arbitrary, discriminatory and being violative of
> Article 14 of the Constitution of India and also violative of Article 243-K of the Constitution of India and Sections 11,
> 12, 201 of the A.P. Panchayat Raj Act 1994 and consequently this Court also declares that all the electoral lists drawn in this regard are not in accordance with the provisions of the Constitution, the statutory provisions, or the subordinate Legislations inasmuch as they suffer from the Constitutional bankruptcy, Legislative bankruptcy and subordinate legislative bankruptcy as well and further direct the respondents to prepare fresh electoral lists in accordance with the provisions of the Constitution and also the provisions of the A.P. Panchayat Raj Act, 1994, if need be, by filling the requisite subordinate legislation as well."

Learned counsel for the appellant invited our attention to the judgment dated 18-12-2006 rendered by the Division Bench in Writ Appeal No. 709 of 2006 – **Government of Andhra Pradesh v. N.Sekhar and others** and batch, whereby order dated 20-6-2006 passed by the learned Single Judge in Writ Petition No. 10965 of 2006 and batch was reversed, and submitted that this appeal may be allowed in similar terms.

The aforementioned statement of the learned counsel for the appellant has not been contested by the learned counsel for the respondents.

Hence, the appeal is allowed. The order of the learned Single Judge is set aside. The detailed reasons recorded in judgment dated 18-12-2006 rendered by the Division Bench in Writ Appeal No. 709 of 2006 shall be read as part of this order. However, liberty is given to respondent Nos. 1 and 2 to file election petition to question the elections held on the basis of electoral rolls notified on 08-05-2006. It shall also be open to respondent Nos. 1 and 2 to apply for condonation of delay in filing election petition. If they file such application, then the same shall be decided by the Election Tribunal in accordance with law keeping in view the litigation instituted in this Court.

As a sequel to disposal of the writ appeal, WAMP No. 2597 of 2006 filed by the appellant is disposed of as infructuous.

G.S. SINGHVI, CJ

G.V. SEETHAPATHY, J

December 22, 2006

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